

IN THE SUPREME COURT OF THE STATE OF DELAWARE

KENNARD C. LANE,	§
	§
Defendant Below-	§ No. 687, 2010
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Kent County
	§ Cr. ID Nos. 0510017058
Plaintiff Below-	§ and 0601019849
Appellee.	§

Submitted: March 18, 2011

Decided: May 17, 2011

Before **STEELE**, Chief Justice, **HOLLAND**, and **RIDGELY**, Justices.

ORDER

This 17th day of May 2011, upon consideration of the appellant's opening brief, the State's motion to affirm, and the record below, it appears to the Court that:

(1) The appellant, Kennard Lane, filed this appeal from the Superior Court's denial of his first motion for postconviction relief. The State of Delaware has filed a motion to affirm the judgment below on the ground that it is manifest on the face of Lane's opening brief that his appeal is without merit. We agree and affirm.

(2) The record reflects that Lane pled guilty on January 24, 2006 to one count of first degree rape in Cr. ID No. 0510017058. The State dismissed the

remaining charges of the indictment. Lane again pled guilty on February 6, 2006 to an additional count of first degree rape in Cr. ID No. 0601019849. The State dismissed the twenty-nine remaining counts of that indictment. The victims in each case were Lane's daughters.

(3) Prior to sentencing, Lane moved to withdraw his guilty plea in Cr. ID No. 0601019849. A hearing was held on the motion on April 28, 2006. The Superior Court denied the motion after finding that Lane had entered his guilty plea knowingly, intelligently, and voluntarily. Thereafter, the Superior Court sentenced Lane on both charges to a total period of eighty years at Level V incarceration to be suspended after serving forty years in prison for a period of probation. This Court affirmed the Superior Court's judgment on direct appeal.¹

(4) Lane filed his present motion for postconviction relief on April 20, 2009. His motion alleged that: (i) his guilty plea was the result of ineffective assistance of counsel; (ii) the trial judge exceeded the sentencing recommendations; and (iii) there was exculpatory evidence that the prosecutor did not disclose until Lane entered his plea. The Superior Court referred the motion to a Commissioner who recommended that the motion be denied as being both procedurally barred and without merit. The Superior Court adopted the

¹ *Lane v. State*, 2006 WL 3703683 (Del. Dec. 18, 2006).

Commissioner's recommendation and denied Lane's motion for postconviction relief on October 11, 2010. This appeal followed.

(4) In reviewing the Superior Court's denial of a motion for postconviction relief, this Court first must consider the procedural requirements of Rule 61 before addressing any substantive issues.² Rule 61(i)(1) bars litigation of any motion for postconviction relief that is filed more than one year after the judgment of conviction becomes final.³ In this case, Lane's convictions became final on January 3, 2007 when this Court issued the mandate following Lane's direct appeal.⁴ His current motion, filed on April 20, 2009, is thus untimely. Lane has failed to overcome this procedural hurdle.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

²*Younger v. State*, 580 A.2d 552, 554 (Del. 1990).

³ Del. Super. Ct. Crim. R. 61(i)(1) (2011).

⁴ *Younger v. State*, 580 A.2d at 554-55 (noting that, following a direct appeal, a criminal conviction becomes final upon issuance of the appellate court's mandate).